

**Docket No. 01-0488
ICC Staff Exhibit 1.0**

DIRECT TESTIMONY

ROY A. KING

WATER DEPARTMENT

**FINANCIAL ANALYSIS DIVISION
ILLINOIS COMMERCE COMMISSION**

CRYSTAL CLEAR WATER COMPANY

Docket No. 01-0488

September 2001

1 **Q. Please state your name and business address.**

2 A. My name is Roy A. King. My business address is 527 East Capitol Avenue, P.
3 O. Box 19280, Springfield, Illinois 62794-9280.
4

5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by the Illinois Commerce Commission (Commission) as an
7 Economic Analyst in the Water Department of the Financial Analysis Division
8 (FAD).
9

10 **Q. How long have you been employed by the Commission?**

11 A. Since August of 1979.
12

13 **Q. Will you please briefly state your qualifications?**

14 A. I graduated from Chicago Technical College in 1970 with a Bachelor of Science
15 degree in Architectural Engineering.
16

17 From 1970 to May 1979, I served with the U.S. Navy. My assignments included
18 those of Maintenance Supervisor, Instructor, Counselor for a Drug and Alcohol
19 Program, and managing a division of 30 men and its related equipment. Since
20 August 1979, I have been employed by the Commission. Until mid-1982, I was

Docket No. 01-0488
ICC Staff Exhibit 1.0

1 assigned to the Public Utilities Division, Engineering Department, Gas and
2 Electric Section as a Utility Engineer. My duties were to assist the Chief Gas
3 Engineer and the Chief Engineer in the administration of all engineering matters
4 associated with the regulation of privately owned gas and electric utilities in the
5 State of Illinois. During this period, my duties included (1) evaluating rate filings
6 and rules and regulations filings, (2) assisting the Consumer Services Division,
7 upon request, in handling investigations and correspondence relating to electric
8 and gas inquiries and complaints, (3) evaluating testimony presented by the
9 utilities and conducting cross-examination, (4) testifying on behalf of Staff in
10 applications for Certificates of Convenience and Necessity (Certificates), rate
11 proceedings and other formal cases which contain issues requiring review by the
12 Engineering Department, and (5) processing other work as directed by the Chief
13 Engineer.

14
15 In 1982, Staff functions were reorganized and I was assigned to the Water and
16 Sewer Section within the Engineering Department. My duties were very similar
17 to those previously described, except that I worked on matters associated with
18 water and sewer utilities.

Docket No. 01-0488
ICC Staff Exhibit 1.0

1 In November of 1992, engineering and rate matters for water and sewer utilities
2 were transferred to the Office of Policy and Planning (OPP) and I was assigned
3 to OPP. My duties include (1) evaluating rate schedule filings, and rules and
4 regulations filings, (2) assisting the Consumer Services Division, upon request, in
5 handling inquiries and complaints, (3) evaluating testimony presented by the
6 utilities and conducting cross-examination, (4) testifying on behalf of Staff in
7 applications for Certificates, rate proceedings, and other formal cases which
8 contain issues requiring review by OPP, and (5) reviewing cost-of-service studies
9 for the water and sewer utilities when so assigned.

10
11 In 1997, Staff's functions were reorganized and I was assigned to the Rates
12 Department within FAD (formerly Public Utilities Division). In 2000, Staff's
13 functions were reorganized forming a Water Department and I was assigned to
14 the Water Department. My duties are the same as those previously described.

15
16 Since being employed by the Commission, I have received an Associates Degree
17 in Business Administration from Lincoln Land Community College, Springfield,
18 Illinois, and in 1985, I received a Bachelor of Arts Degree in Management from
19 the University of Illinois, Springfield (formerly Sangamon State University),
20 Springfield, Illinois.

1
2 In addition, I have attended a number of courses regarding utility regulation,
3 including several sponsored by the National Association of Regulatory Utility
4 Commissioners (NARUC). I completed a one-week utility rate seminar co-
5 sponsored by the NARUC Water Committee and the University of Utah Center
6 for Continuing Education. I have also completed a course in Sewage Treatment
7 Plant Operations, which was sponsored by the Environmental Training Resource
8 Center at Southern Illinois University, and three courses in depreciation practices
9 that were sponsored by Depreciation Programs, Inc.
10

11 **Q. Are you a member of any professional organizations?**

12 A. Yes, I am a member of the Illinois Potable Water Operator's Association, Illinois
13 Section of the American Water Works Association and American Water Works
14 Association.
15

16 **Q. What is your assignment in this case?**

17 A. I was assigned by the Manager of the Water Department to examine Crystal
18 Clear Water Company's (Crystal Clear or Company) operations for compliance
19 with the Order entered in Docket No. 97-0605. This Order described certain
20 requirements to be completed on the facilities and records to be maintained to

1 comply with the Public Utilities Act (PUA) and the Illinois Commerce
2 Commission's Administrative Codes. Specifically, my responsibilities include
3 presenting testimony regarding Crystal Clear's compliance with the Order in the
4 Docket No. 97-0605.

5
6 **Q. Could you briefly describe Crystal Clear's service area and the water**
7 **facilities utilized to serve the area?**

8 A. The Company is currently providing water service to approximately 296
9 residential and commercial customers in Crystal Lake Subdivision, southeast of
10 the City of Crystal Lake in McHenry County, Illinois. Crystal Clear is one of five
11 utilities in McHenry County owned by T. P. Mathews. The other affiliated utilities
12 are:

13 Northern Illinois Utilities, Inc.
14 McHenry Shores Water Company;
15 Highland Shores Water Company; and
16 Wonder Lake Water Company.
17

18 Crystal Clear received its initial Certificate of Public Convenience and Necessity
19 on March 13, 1955, in Docket No. 42035.

20
21 The water distribution system, based on the Company's 1997 Annual Report and
22 my observations in the field, consists of two wells, two hydro pneumatic storage

1 tanks for a combined capacity of 28,000 gallons, approximately 13,306 feet of
2 four through eight inch diameter mains, 296 services, 296 meters, and 9
3 hydrants.

4
5 **Q. Could you describe the events that occurred leading to the Commission**
6 **entering the Order in Docket No. 97-0605?**

7 A. Yes, On January 10, 1997, Mr. Thomas P. Mathews, owner and operator of
8 Crystal Clear, filed for an increase in revenues under the Commission's simplified
9 rate case procedures. In response to Crystal Clear's notification to the
10 customers about the rate increase, the Consumer Services Division (CSD) began
11 receiving letters and phone calls from the customers opposing the rate increase.
12 As a result of those responses filed by the customers, a public meeting was held
13 on March 25, 1997.

14
15 The purpose of the public meeting was to allow customers the opportunity to
16 voice any concerns about issues regarding the Company. Mr. Mathews and Mr.
17 Jeff Klaus, Vice President, represented Crystal Clear at the public meeting.
18 Representatives from the Illinois Environmental Protection Agency (IEPA) were
19 present and also answered questions. Approximately 20 of the 300 customers
20 served by Crystal Clear attended. The customers voiced anger and frustration

Docket No. 01-0488
ICC Staff Exhibit 1.0

1 about the quality of water, Company management, service, and the lack of
2 concern and action by the Commission and IEPA.

3
4 As a result of the public meeting, the Commission initiated a Citation proceeding,
5 Docket No. 97-0605, which terminated the simplified rate case procedure and
6 commenced an investigation into its rates and non-compliance to Commission's
7 rules and regulations. In June 1999, the Commission entered an Order in Docket
8 No. 97-0605, granting Crystal Clear an increase in revenues and requiring
9 Crystal Clear to make improvements to the facilities and records.

10
11 **Q. Can you describe the requirements set forth in the Order in Docket No. 97-**
12 **0605 and the time schedule that the Company was to complete upgrading**
13 **the facilities and records to comply with the Public Utilities Act (PUA) and,**
14 **the Illinois Commerce Commission's Administrative Codes.**

15 **A.** The following summary set forth the actions to be taken and the deadline to be
16 completed. Note that, all deadlines extend from the date of the Order (June 16,
17 1999).

	Requirement	Deadline	Completion
1.	Institution of meter reading	1 year	Not Completed

**Docket No. 01-0488
ICC Staff Exhibit 1.0**

	program;		
2.	Institution of a meter replacement or installation program;	1 year	Not Completed
3.	Quarterly reports indicating location of installed meters and remotes and documenting quantity of customer refunds;	Quarterly	Not Completed
4.	Establish a meter testing program on meters that are 10 yrs. or older;	120 days	Not Completed
5.	Participate in State-Wide One Call Notice (JULIE);	60 days	Completed
6.	Replace Hydrant No. 8 and correct the discrepancies on Schedule 3.03 (a) and (b);	1 year	Not completed
7.	Uncapped mains be capped or hydrants installed;	90 days	Not completed
8.	Install elevated storage tank with at least 40,000 gals;	24 months	Not completed
9.	Establish 8" future main program;	--	No mains installed
10.	Moisture proof electrical receptacles; and	30 days	Completed
11.	Establish and maintain continuing property ledger.	6 months	Not completed

Q. You indicate that the Order required Crystal Clear to establish a meter-reading program, so that Crystal Clear could be consistently billed. In your investigation regarding compliance to the Order, has the Company

1 **established a program so that the customer's meters will be read at least**
2 **every second billing period?**

3 A. Based on Staff's discussion with Crystal Clear's personnel, it was reported that
4 they had a program in place. However, at the time of the Staff's inspection, the
5 Company had not read meters for approximately 3 billing cycle. Therefore, it
6 appears that the customers were experiencing bills that had two or more
7 consecutive estimates.

8
9 **Q. In the above answer, you indicated that the Company had estimated**
10 **customers bills two or more consecutive times. In your opinion, does**
11 **estimating bills two or more consecutive times comply with 83 Ill. Adm.**
12 **Code Part 280, "Procedures for Gas, Electric, Water, Sanitary Sewer**
13 **Utilities Governing Eligibility for Service, Deposits, Payment Practices and**
14 **Discontinuance of Service?"**

15 A. No. Based on my experience with the Commission, it appears that Crystal Clear
16 is in violation of 83 Ill. Adm. Code 280.80, "Estimated Bills." Part 280.80
17 stipulates that all utilities shall make an actual meter reading at least every
18 second billing period. Estimates may be used if the utility has taken appropriate
19 and reasonable measures to read the meters, such as making an appointment
20 with the customer, scheduling readings other than normal business hours, or

1 providing postal cards for customer readings.

2
3 **Q. Since the Order was issued in Docket No. 97-0605, are you aware of any**
4 **petition by Crystal Clear requesting or the Commission granting Crystal**
5 **Clear a variance from Part 280.80?**

6 A. No.

7
8 **Q. In your opinion, has Crystal Clear instituted a meter replacement program**
9 **or an installation program?**

10 A. No. In Crystal Clear's initial report of September 15, 1999, they indicated that the
11 "Company plans to replace all meters within the next 18 months." Based on my
12 discussion with Company personnel, it appears that no program is in place to
13 replace the meters in Crystal Clear's water system. The Company's filing for a
14 rate increase, under the Simplified Rate Procedures, further illustrated this. The
15 filing did not include any contracts showing the purchase of a large quantity of
16 meters and their associated outside registers.

17
18 **Q. The Order in Docket No. 97-0605 requires Crystal Clear to provide quarterly**
19 **reports to Staff regarding installation of meters and remote registers and**
20 **the amount of refunds with interest made to customers. Based on your**

1 **investigation, has Crystal Clear made those reports available to Staff**
2 **according to the Order in Docket No. 97-0605?**

3 A. No. Crystal Clear made an initial report on September 15, 1999. However, the
4 report did not provide any details as to locations of the meter installations or the
5 customers receiving refunds. In May 2000, Mr. Raymond E. Pilapil, Manager of
6 the Water Department, and I met with Mr. Thomas P. Mathews and during that
7 meeting I ask Mr. Mathews why Staff had not received any reports about refunds
8 to customers. Mr. Mathews reported that the Company was experiencing
9 difficulty with their computer due to Y2K problems. Approximately one year later,
10 I requested the information again. This time it was reported that they had
11 upgraded computers and the information I was requesting was not readily
12 available. They would check with the manufacturer to see how they could gather
13 the information. As of this date, I have not received any information from the
14 Company.

15
16 **Q. Have you reviewed the Company's operations?**

17 A. Yes, I have personally visited and reviewed the Company's operations and
18 facilities on a number of occasions since 1993.

19
20 **Q. Did you inspect Crystal Clear's water facilities in connection with this**

1 **case?**

2 A. I inspected Crystal Clear's water treatment facilities, valves and hydrants as a
3 follow-up to the Order in docket No. 97-0605.
4

5 **Q. Having inspected the water facilities, were there any other deficiencies**
6 **found concerning the reliability of service and/or safety related items?**

7 A. Yes, I found the following deficiencies:

8 a) The following hydrants were found to be in need of repair
9 replacement:

10 No. 8 - Hydrant will not operate;

11 No. 3 – Hydrant was missing;

12 b) Dead-end mains, where valves were located, did not have any
13 type of flushing hydrant, some mains were uncapped and when
14 the valves were opened water was discharged underground;
15 and,

16 c) There is inadequate storage capacity.
17

18 **Q Are items (a) though (c) above the same items reported by you in Docket**
19 **97-0605, in which the Commission ordered Crystal Clear to replace and/or**
20 **repair?**

21 A. Yes, they are. In addition during the inspection of the hydrants, we located one
22 additional hydrant that was missing.
23

24 **Q Do you still consider item (b) a safety hazard that should be repaired as**
25 **soon as possible?**

Docket No. 01-0488
ICC Staff Exhibit 1.0

1 A. Yes, I do for the following reason. If a main break should occurred during the
2 flushing cycle, it is possible a vacuum could be created on the system. This
3 could pull dirt and other contaminates into the water main thus contaminating the
4 water and possibly violating Section 600.210. 83 Ill. Adm. Code Section
5 600.210 requires a utility to furnish a safe water supply suitable for drinking and
6 free of any hazards to health.

7
8 **Q. I am showing you a document marked for identification as ICC Staff Exhibit**
9 **1.00, Schedule 1.01, and ask you to identify these documents.**

10 A. Schedule 1.01 is a two-page summary of my inspection of the Company's
11 hydrants.

12
13 **Q. On Schedule 1.01, it appears that there were other minor discrepancies**
14 **with the hydrants in Crystal Clear's system that you found besides item (a),**
15 **such as missing hydrant cap chains and hydrants needing painting. Are**
16 **you recommending that these discrepancies be repaired?**

17 A. Yes, I am still recommending these minor discrepancies be repaired. These
18 minor discrepancies with the hydrants appear to still exist, as found and reported
19 in Docket No. 97-0605.

1 **Q. Has Crystal Clear increased its storage capacity as per the Order in Docket**
2 **No. 97-0605?**

3 A. No.
4

5 **Q. Do you still believe that Crystal Clear's storage capacity is inadequate to**
6 **meet the customers demands and that the Company should install**
7 **additional capacity?**

8 A. Yes, in the Order the Commission required Crystal Clear to install an elevated
9 storage tank having at least 40,000 gallons of storage within 24 months of the
10 date of the Order (June 19, 1999). In the Company's September 15, 1999 report,
11 they stated, " Present storage meets the requirements of a system this size."
12 The existing system consist of two hydro-pneumatic storage tanks having a total
13 capacity of 28,000 gallons, which is approximately 8,300 gallons less than Illinois
14 Environmental Protection Agency (IEPA), "Recommended Ten States Standards
15 for Water Works." A utility is required by 83 Ill. Adm. Code Section 600.210 to
16 conform to the standards of drinking water as established by the IEPA. To
17 comply with the IEPA regulations, the Company should have at least 40,000
18 gallons of storage capacity. (296 customer x 35 gallons per capita x 3.5 people
19 per service).
20

1 **Q. Have you reviewed the Company's procedures for testing customer's**
2 **meters?**

3 A. 83 Ill Adm. Code Section 600.300 and the Order in Docket No. 97-0605, requires
4 that 5/8" meters be tested on a 10 year cycle. During my inspection of the
5 facilities, I did not see a meter testing bench or any evidence that the Company
6 plans to establish a program to test meters on a regular basis or by any outside
7 sources. The Company reported in their September report that they had
8 arranged to have meters tested by an outside source when the customers
9 request that their meters be tested. The Company did not provided any support
10 in their May 15, 2001 filing for a rate increase under the Simplified Rate
11 Procedures, that they have contracted any outside source for testing of meters.

12
13 **Q. Since the Commission granted Crystal Clear a rate increase of \$12,048**
14 **(29.5% increase) in June 1999, have any events occurred that affects the**
15 **Company's financial status?**

16 A. Yes, on or about late October or earlier November 1999, Crystal Clear filed for
17 bankruptcy. Based on my understanding, the Company is still in bankruptcy.

18
19 **Q. Have you completed your investigation into Crystal Clear's operation and**
20 **financial status concerning this docket?**

Docket No. 01-0488
ICC Staff Exhibit 1.0

1 A. No, Schedule 1.02 is Staff's data request mailed to Mr. Mathews requesting
2 additional information concerning continuing property records, electric bills,
3 missing quarterly reports and billing practice. The Company was to respond to
4 the data requests by August 31, 2001. As of September 7, 2001, Staff had not
5 received those responses.

6
7 **Q. Has Crystal Clear established Continuing Property Records as per the**
8 **Order in Docket No. 97-0605?**

9 A. No. Based on my discussion with the Company personnel, it appears that
10 Continuing Property Records has not been established.

11
12 **Q. Based on the above reasons, do you have a recommendation to the**
13 **Commission concerning the status of Crystal Clear Water Company, owned**
14 **and operated by Mr. Mathews?**

15 A. Yes, I am recommending to the Commission that Section 4-502 of the PUA be
16 applied in this instance. Under Section 4-502 (a), the Commission may provide
17 for the acquisition of a small public utility or telecommunications carrier by a
18 capable public utility or telecommunications carrier, if the Commission, after
19 notice and an opportunity to be heard, determines one or more of the following:

Docket No. 01-0488
ICC Staff Exhibit 1.0

- (1) The small public utility or telecommunications carrier is failing to provide safe, adequate, or reliable service;
- (2) The small public utility or telecommunications carrier no longer possesses sufficient technical, financial, or managerial resources and abilities to provide the service Or services for which its certificate was originally granted;
- (3) The small public utility or telecommunications carrier has been actually or effectively abandoned by its owners or operators;
- (4) The small public utility or telecommunications carrier has defaulted on a bond, note, or loan issued or guaranteed by a department, office, commission, board, authority, or other unit of State government;
- (5) The small public utility or telecommunications carrier has wilfully failed to comply with any provision of this Act, any other provision of State or federal law, or any rule, Regulation, order, or decision of the Commission; or
- (6) The small public utility or telecommunications carrier has willfully allowed property owned or controlled by it to be used in violation of this Act, any other provision of State or federal law, or any rule, regulation, order, or decision of the Commission.

Therefore, for the reasons discussed above, it appears that the Crystal Clear does not meet the requirements stated in provisions (1), (2) and (5) of Section 4-502.

Q. If the Commission should order the acquisition of Crystal Clear by a cable public utility, what utilities are in the vicinity, which are capable of complying with the order in Docket No. 97-0605 and improving overall service to the customers.

1 A. Of the investor owned utilities that the Commission regulates, it would appear to
2 be Citizens Utilities Company of Illinois, Consumers Illinois Water Company and
3 Utilities, Inc.

4

5 **Q. Does this conclude your Direct Testimony?**

6 A. Yes, it does.

7

8